

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DANA KYLE TOGANS,  
Plaintiff

v.

UNIVERSITY OF MARYLAND, *et al.*  
Defendants

: No. 1:24cv1430  
:  
: (Judge Munley)  
:  
: (Magistrate Judge Arbuckle)  
:  
:

ORDER

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge William I. Arbuckle recommending that Plaintiff Dana Kyle Togans’s complaint be dismissed without further leave to amend. (Doc. 7). The R&R is premised upon three grounds: 1) plaintiff’s failure to allege a basis for the court to exercise jurisdiction; 2) plaintiff’s failure to plead a claim upon which relief can be granted; and 3) plaintiff’s failure to file an amended complaint as previously ordered by the magistrate judge. (*Id.*) No objection to the R&R has been filed and the time for such filing has passed.

In deciding whether to adopt an R&R when no timely objection is filed, the court must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b), 1983 Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on

the face of the record to accept the recommendation”); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

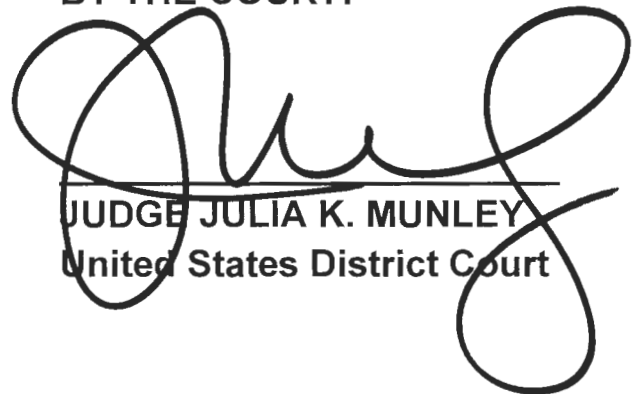
After review, the court finds neither plain error nor manifest injustice on the face of the record. Plaintiff’s complaint does not aver a basis for jurisdiction. Had jurisdiction been clearly averred, the facts of the complaint also fail to state a claim. Furthermore, Magistrate Judge Arbuckle appropriately provided plaintiff with the opportunity to file an amended complaint with a screening order dated November 3, 2024. (Doc. 6). More than four (4) months have passed without a response by the plaintiff. Accordingly, it is hereby **ORDERED** that:

- 1) The R&R (Doc. 7) is **ADOPTED**;
- 2) Plaintiff’s complaint (Doc. 1) is **DISMISSED** without leave to amend because this court lacks jurisdiction; and
- 3) The Clerk of Court is directed to close this case.

Date:

3/10/25

BY THE COURT:



JUDGE JULIA K. MUNLEY  
United States District Court